

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

SHERRON WILSON,)	
)	
Petitioner,)	
)	
vs.)	No. 4:08-CV-2004 CAS
)	
LARRY DENNEY,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before the Court upon the application of Sherron Wilson for leave to commence this action without payment of the required filing fee. Upon consideration of the financial information provided with the application, the Court will grant petitioner provisional leave to file this action pursuant to 28 U.S.C. § 1915(a).

In addition, petitioner has filed with the Court a letter dated January 4, 2009, indicating that he mistakenly filed the instant action in the Eastern District of Missouri, as opposed to the Western District of Missouri, where the petition should have been filed. [Doc. 3] He requests that this Court “call off” his § 2254 motion. The Court will liberally construe said letter as a motion to transfer and will grant the motion.¹

¹Petitioner is incarcerated in the Western District of Missouri and he is attacking a conviction that arose in the Western District of Missouri. As such, this Court lacks jurisdiction over the instant habeas action. Under 28 U.S.C. § 1631, a district court which finds that it lacks jurisdiction to entertain a civil action may, if it is in the interest of justice, transfer such action to any other court in which such action could have been brought. 28 U.S.C. § 1631. Upon transfer pursuant to § 1631, the action proceeds as if it had been originally filed in the court to which it is transferred. Because petitioner is proceeding *pro se* and in forma pauperis and he is seeking habeas corpus relief, the undersigned believes that it would be in the interest of justice to transfer this case to the Western District of Missouri pursuant to 28 U.S.C. § 1631.

Accordingly,

IT IS HEREBY ORDERED that petitioner's motion for leave to proceed in forma pauperis is **PROVISIONALLY GRANTED**. [Doc. 2] Because this case is to be transferred to the United States District Court for the Western District of Missouri, such leave to proceed in forma pauperis is subject to modification by the Western District upon transfer.

IT IS FURTHER ORDERED that petitioner's motion to transfer this action to the Western District of Missouri is **GRANTED**. [Doc. 3]

IT IS FURTHER ORDERED that the Clerk shall **TRANSFER** the instant application for writ of habeas corpus pursuant to 28 U.S.C. § 2254 to the United States District Court for the Western District of Missouri.

An appropriate order of transfer shall accompany this memorandum and order.

A handwritten signature in dark ink, appearing to read "Charles A. Shaw", is written over a horizontal line.

CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 13th day of January, 2009.